

VENTURA COUNTY AIR POLLUTION CONTROL DISTRICT

RULE 26-9 - NEW SOURCE REVIEW - POWER PLANTS

(Adopted 10/22/91)

A. Applicability

This Rule shall apply to all power plants proposed to be constructed in Ventura County and for which a Notice of Intention (NOI) or Application for Certification (AFC) has been accepted by the California Energy Commission. The Air Pollution Control Officer (APCO), pursuant to Section 25538 of the Public Resources Code, may apply for reimbursement of all costs incurred, including lost fees, in order to comply with the provisions of this Rule.

B. Intent to Participate And Preliminary Report

Within 14 days of receipt of a NOI, the APCO shall notify the California Air Resources Board (ARB) and the California Energy Commission of the District's intent to participate in the NOI proceeding. If the District chooses to participate in the NOI proceeding, the APCO shall prepare and submit a report to ARB and the California Energy Commission prior to the conclusion of the nonadjudicatory hearings specified in Section 25509.5 of the Public Resources Code. That report shall include, at a minimum:

1. A preliminary specific definition of Best Available Control Technology for the proposed facility;
2. A preliminary discussion of whether there is substantial likelihood that the requirements of Rule 26 and all other District rules and regulations can be satisfied by the proposed facility;
3. A preliminary list of conditions which the proposed facility must meet in order to comply with Rule 26 and all other applicable District rules and regulations.

The preliminary determinations contained in the Report shall be as specific as possible within the constraints of the information contained in the NOI.

C. Determination of Compliance Review

Upon receipt of an AFC for a power plant, the APCO shall conduct a Determination of Compliance review. This determination shall consist of a review identical to that which would be performed if an application for an Authority to Construct had been received for the power plant. If the APCO determines that the AFC does not contain the information necessary to process the application, the APCO shall, within 20 calendar days of receipt of the AFC, so inform the California Energy Commission, and the AFC shall be considered incomplete and returned to the applicant for resubmittal.

D. Equivalency of Application for Certification to Authority to Construct

The APCO shall consider the AFC to be equivalent to an application for an Authority to

Construct during the Determination of Compliance review, and shall apply all provisions of Rule 26 and all other District rules and regulations which apply to applications for an Authority to Construct.

E. Need for Additional Information

The APCO may request from the applicant any information necessary for the completion of the Determination of Compliance review. If the APCO is unable to obtain the information, the APCO may petition the presiding Commissioner of the California Energy Commission for an order directing the applicant to supply such information.

F. Preliminary Determination

Within 180 days of accepting an AFC as complete, the APCO shall make a preliminary decision on:

1. Whether the proposed power plant meets the requirements of Rule 26 and all other applicable District rules and regulations; and
2. In the event of compliance, what conditions will be required including the specific Best Available Control Technology requirements and a description of required mitigation measures.

Such preliminary decision shall be treated as a preliminary decision under Rule 26.7.B.1, and shall be finalized by the APCO only after being subject to the public notice and comment requirements of Rule 26.7. The APCO shall not issue a Determination of Compliance unless all requirements of Rule 26 and all other applicable District rules and regulations are met.

G. Determination of Compliance

Within 240 days of the filing date, the APCO shall issue and submit to the California Energy Commission a Determination of Compliance or, if such a determination cannot be issued, shall so inform the California Energy Commission. A Determination of Compliance shall confer the same rights and privileges as an Authority to Construct only when and if the California Energy Commission approves the AFC, and the Commission certificate includes all conditions of the Determination of Compliance.

H. Permit to Operate

Any applicant receiving a certificate from the California Energy Commission pursuant to this part and in compliance with all conditions of the certificate shall be issued a Permit to Operate by the APCO.